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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,772	12/28/2000	Hiroshi Dempo	FQ5-509	4857
466	7590	07/13/2004	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			PHUNKULH, BOB A	
		ART UNIT	PAPER NUMBER	
		2661	5	
DATE MAILED: 07/13/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/749,772	DEMPO ET AL.
	<b>Examiner</b> Bob A. Phunkulh	<b>Art Unit</b> 2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 December 2000.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 22-24 is/are allowed.
- 6) Claim(s) 1,10-12,20,21,29 and 34 is/are rejected.
- 7) Claim(s) 2-9,13-19,25-28 and 30-33 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 December 2000 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3-4</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 10-12, 20-21, 29, 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Zicker (US 5,995,833).

Regarding claim 1, Zicker discloses a base station apparatus for communicating with a specific base station and at least one terminal that is movable relative to the specific base station, wherein

the base station apparatus (see figure 2, and col. 4 line 49 to col. 5 line 5) is movable relative to the specific base station (the land station 24 or ground station 36 are fixed on the ground, see figure 1), and when the at least one terminal has moved relative to the specific base station, the base station apparatus moves relative to the specific base station substantially in the same direction as a move direction of the at least one terminal.

Regarding claim 10, Zicker discloses base station apparatus is installed in transporting means for transporting a user of a terminal (the base stations are located on an aircraft 20, see figure 2 and col. 4 line 49 to col. 5 line 5).

Regarding claim 11, Zicker discloses the specific base station is fixedly provided on the ground (the land station 24 or ground station 36 are fixed on the ground, see figure 1).

Regarding claim 12, Zicker discloses a communication system comprising:  
a specific base station (one of the plurality of land stations 24 or ground stations 36, see figure 1);  
a terminal that is movable relative to the specific base station (on of the plurality of radiophones on the aircraft 20, see figure 2) ; and  
a base station apparatus (A-side cellsite 33 or B-side cellsite 35 on the air craft 20, see figures 1 and 2) for communicating with the specific base station and the terminal, wherein the base station apparatus is movable relative to the specific base station, and when the terminal has moved relative to the specific base station, the base station apparatus moves relative to the specific base station substantially in the same direction as a move direction of the terminal.

Regarding claim 20, Zicker discloses base station apparatus is installed in transporting means for transporting a user of a terminal (the base stations are located on an aircraft 20, see figure 2 and col. 4 line 49 to col. 5 line 5).

Regarding claim 21, Zicker discloses the specific base station is fixedly provided on the ground (the land station 24 or ground station 36 are fixed on the ground, see figure 1).

Regarding claim 29, Zicker discloses the specific base station is fixedly provided on the ground (the land station 24 or ground station 36 are fixed on the ground, see figure 1).

Regarding claim 34, Zicker discloses the specific base station is fixedly provided on the ground (the land station 24 or ground station 36 are fixed on the ground, see figure 1).

***Allowable Subject Matter***

Claims 2-9, 13-19, 25-28, 30-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 22-24 are allowed.

***Conclusion***

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314, (for formal communications intended for entry)

**Or:**

Hand-delivered responses should be brought to Crystal Park II, 2021

Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bob A. Phunkulh** whose telephone number is **(703) 308-8251**. The examiner can normally be reached on Monday-Friday from 8:00 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor **Douglas W. Olms**, can be reach on **(703) 305-4703**. The fax phone number for this group is **(703) 872-9314**.

Art Unit: 2661

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Bob A. Phunkulh**

Bob A. Phunkulh

TC 2600  
Art Unit 2661  
July 8, 2004